

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

JONATHAN BAILEY and JOSE  
CARRASCO JR., on behalf of themselves  
and on behalf of all persons similarly  
situated,

Plaintiffs,

v.

ROMANOFF FLOOR COVERING, INC.,  
a Corporation; and Does 1 through 50,  
Inclusive,

Defendant.

No. 2:17-cv-00685-TLN-DMC

**ORDER GRANTING FINAL APPROVAL  
OF CLASS ACTION SETTLEMENT,  
MOTION FOR AWARD OF ATTORNEYS'  
FEES AND COSTS AND SERVICE  
PAYMENT, AND JUDGMENT AND  
DISMISSAL**

Plaintiffs Jonathan Bailey and Jose Carrasco Jr.'s (collectively, "Plaintiffs") Motion for Final Approval of Class Settlement ("Motion for Final Approval") and Motion for Award of Attorneys' Fees and Costs and Service Awards ("Fees Motion") came on for hearing on April 15, 2021, at 1:30 p.m., before U.S. District Judge Troy L. Nunley.<sup>1</sup> (ECF Nos. 18–19, 24.) Kyle Nordrehaug, appeared on behalf of Plaintiffs and Sat Sang Khalsa appeared on behalf of Defendant Romanoff Floor Covering, Inc. ("Defendant.")

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<sup>1</sup> The parties initially appeared before the Court for hearing on January 21, 2021. No Class Members appeared at that time. In order to ensure compliance with Federal Rule of Civil Procedure 23 and CAFA (28 U.S.C. § 1715(d)), the Court continued the hearing to April 15, 2021. (ECF No. 21.)

1 The Parties submitted their Class Action Settlement Agreement (“Settlement Agreement”  
2 or “Settlement”), which this Court preliminarily approved in its July 16, 2020 Order (the  
3 “Preliminary Approval Order”). (ECF No. 17.) In accordance with the Preliminary Approval  
4 Order, Class Members have been given notice of the terms of the Settlement and the opportunity  
5 to comment on or object to it or to exclude themselves from its provisions. (*Id.*; *see also* ECF No.  
6 22.)

7 Having fully and carefully considered the Settlement Agreement, the Motion for Final  
8 Approval and Fees Motion, the memoranda, evidence, and declarations filed in support thereof,  
9 and the oral arguments made at the hearing, it is HEREBY ORDERED and DETERMINED that:

10 1. Except as otherwise specified herein, the Court adopts all defined terms as set forth in  
11 the Settlement Agreement, a copy which is attached as Exhibit 2 to the Declaration of Norman  
12 Blumenthal in Support of Plaintiffs’ Motion for Final Approval. (ECF No. 19-2 at 52–107.)

13 2. The Court has jurisdiction over this Action and the Settlement pursuant to 28 U.S.C. §  
14 1331.

15 3. Plaintiffs Jonathan Bailey and Jose Carrasco, Jr. are confirmed as Class  
16 Representatives.

17 4. Blumenthal Nordrehaug Bhowmik De Blouw, LLP, by and through Lead Counsel  
18 Norman Blumenthal, Kyle Nordrehaug, and Aparajit Bhowmik are confirmed as Class Counsel.

19 5. CPT Group, Inc. is confirmed as Settlement Administrator.

20 6. Prior to granting preliminary approval, the Court evaluated the standards for class  
21 certification. Nothing has been raised subsequently that might affect the Court’s prior analysis as  
22 to whether certification is appropriate here, and the Court has no cause to revisit that analysis.  
23 The Court finds that final certification of the Class is appropriate under Rule 23 and hereby  
24 GRANTS, for settlement purposes only, certification of the Class consisting of the California  
25 Class and the Fair Credit Reporting Act (“FCRA”) Class, as defined herein:

26 The California Class is defined as all individuals who worked for  
27 Defendant in California as non-exempt employees from March 30,  
28 2013 up to and through May 1, 2018 (the “California Class”)

The FCRA Class is defined as all prospective employees for whom

1 Defendant procured a background check during the time period of  
2 March 30, 2012 to April 5, 2017, which is comprised of FCRA Class  
3 Members who received an FCRA form within the 2-year statutory  
4 period of FCRA and FCRA Class Members who received an FCRA  
form within the 5-year statutory period of FCRA but outside of the  
2-year statutory period of FCRA (the “FCRA Class”).

5 7. The Court reviewed the Notice of Proposed Settlement of Class Action and Hearing  
6 Date for Final Court Approval (“Class Notice”) that was proposed when the Parties sought  
7 preliminary approval of the Settlement and found it sufficient. (See ECF No. 17.) Pursuant to the  
8 Preliminary Approval Order, the Class Notice was sent to each Class Member by first-class mail.  
9 The Class Notice informed Class Members of the terms of the Settlement, their right to receive a  
10 Settlement Share, their right to comment on or object to the Settlement and/or the attorneys’ fees  
11 and costs, their right to elect not to participate in the Settlement and pursue their own remedies,  
12 and their right to appear in person or by counsel at the final approval hearing and be heard  
13 regarding approval of the Settlement. Adequate periods of time were provided by each of these  
14 procedures. A website was created and maintained which provided Class Members the ability to  
15 obtain additional information regarding the Settlement and to access pertinent pleadings.

16 8. This notice procedure afforded adequate protections to Class Members and provides  
17 the basis for the Court to make an informed decision regarding approval of the settlement based  
18 on the responses of Class Members. The notice provided in this case was the best notice  
19 practicable, which satisfied the requirements of law and due process. See *Silber v. Mabon*, 18  
20 F.3d 1449, 1453–54 (9th Cir. 1994) (citing *Mullane v. Central Hanover Bank & Trust Co.*, 339  
21 U.S. 306, 314 (1950)); *Winans v. Emeritus Corp.*, No. 13-cv-03962-HSG, 2016 WL 107574, at  
22 \*3 (N.D. Cal. Jan. 11, 2016).

23 9. No Class Members filed written objections to the proposed Settlement as part of this  
24 notice process. Five (5) Class Members requested exclusion: Cameron Kincaid, David Glazer,  
25 Harrison Samitas, Julia Sluder, and Scott Madrid. (See ECF No. 19-5 at 4.)

26 10. For the reasons stated in the Preliminary Approval Order, the Court finds and  
27 determines that the terms of the Settlement are fair, reasonable, and adequate to the Class and to  
28 each Class Member. The Participating Class Members will be bound by the Settlement, the

1 Settlement and implementation schedule are deemed finally approved, and all terms and  
2 provisions of the Settlement are hereby ORDERED to be consummated.

3 11. The all-inclusive Gross Settlement Amount in the maximum amount of \$1,375,000  
4 and the Settlement Shares to be paid to the Participating Class Members as provided for by the  
5 Settlement are fair and reasonable. The Court hereby GRANTS final approval of and ORDERS  
6 the payment of those amounts be distributed to the Participating Class Members out of the Net  
7 Settlement Amount in accordance with the Settlement Agreement. Pursuant to the terms of the  
8 Settlement Agreement, the Settlement Administrator is directed to make the payments to each  
9 Participating Class Member in accordance with the Settlement Agreement. Further, the Court  
10 approves the proposed means of disbursing any unclaimed funds as provided in the Settlement  
11 Agreement.

12 12. The fees and expenses of CPT Group, Inc. in administering the Settlement in the  
13 amount of \$28,000 are fair and reasonable. The Court hereby GRANTS final approval of and  
14 ORDERS the payment of that amount be paid out of the Gross Settlement Amount in accordance  
15 with the Settlement Agreement.

16 13. The Court hereby GRANTS approval of the settlement and release of the Private  
17 Attorneys General Act ("PAGA") claims by the California Class, pursuant to the Settlement  
18 Agreement, and the PAGA Payment of \$10,000 from the Gross Settlement Fund to resolve the  
19 PAGA claims. The proposed allocation is fair and reasonable, serves the deterrent and punitive  
20 purposes of the PAGA, and is within the range commonly approved by state and federal courts.

21 14. The request by Plaintiffs and Class Counsel as to the Class Representative Service  
22 Payments and the attorneys' fees and costs pursuant to the Settlement Agreement are fair and  
23 reasonable. The Court hereby GRANTS final approval of and ORDERS the payment of the  
24 amounts of \$10,000 to each Plaintiff for the Class Representative Service Payments, \$343,750 for  
25 attorneys' fees to Class Counsel, and \$15,000 for reimbursement of costs to Class Counsel, to be  
26 paid out of the Gross Settlement Amount in accordance with the Settlement Agreement.

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1           15. Upon entry of final judgment, Defendant and Released Parties<sup>2</sup> shall be entitled to a  
 2 release of all claims alleged or that could have been alleged based on the facts in the operative  
 3 Complaint which occurred during the Class Periods. For the California Class Participating Class  
 4 Members, this release includes all claims arising under California law based on Business &  
 5 Profession Code § 17200, Unpaid Wages, Failure to Provide Meal Periods, Unpaid Overtime,  
 6 Unreimbursed Business Expenses, Inaccurate Wage Statements, and Waiting Time Penalties, as  
 7 well as claims under California Labor Code §§ 201–204, 226, 226.3, 226.7, 510, 512, 558, 558.1,  
 8 1194, 1194.2, 1197, 1197.1, 1198, and 2802. It also includes any claims arising under Labor  
 9 Code §§ 2699 *et seq.* and any applicable Wage Order of the Industrial Welfare Commission, and  
 10 is inclusive of all forms of penalties, damages, interest, attorneys’ fees, and costs. Except those  
 11 claims that are subject to *res judicata*, based on the facts in the operative Complaint, this Release  
 12 expressly excludes all other claims, including claims for wrongful termination, unemployment  
 13 insurance, disability, social security, and workers’ compensation, as well as claims outside of any  
 14 applicable Class Period. For the FCRA Participating Class Members, this release includes all  
 15 claims arising under the FCRA and any statute or regulation of any state, U.S. territory, the  
 16 District of Columbia, or Puerto Rico that has the purpose or effect of regulating the collection or  
 17 reporting of consumer information and related actions.

18           16. Pursuant to the terms of the Settlement Agreement, Plaintiffs make the additional  
 19 following general release of any and all claims, known or unknown, suspected or unsuspected,  
 20 that each Plaintiff had, now has, or may hereafter claim to have against Defendant and Released  
 21 Parties. Plaintiffs hereby fully and finally release the Released Parties, including Defendant, from

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22           <sup>2</sup> Pursuant to the Settlement Agreement, “Released Parties” refers to: Romanoff Floor  
 23 Coverings, Inc., and its present and former parent companies, subsidiaries, related and/or  
 24 affiliated companies and entities, and its and their present and former owners, shareholders,  
 25 officers, directors, employees, agents, attorneys, insurers, successors, and assigns, and any  
 26 individual or entity which could be jointly or severally liable with Defendant to the Class for the  
 27 Released Claims. As to the FCRA class, “Released Parties” also includes The Home Depot, Inc.,  
 28 Home Depot U.S.A. Inc., and, First Advantage Background Screening Corp., and its and their  
 present and former parent companies, subsidiaries, related and/or affiliated companies and  
 entities, and its and their present and former owners, shareholders, officers, directors, employees,  
 agents, attorneys, insurers, successors, and assigns, and any individual or entity which could be  
 jointly or severally liable to the Class for the Released Claims. (ECF No. 19-2 at 55.)

1 any and all claims, complaints, liens, demands, rights, liabilities, debts, obligations, guarantees,  
2 costs, expenses, attorneys' fees, penalties, interest, damages (including but not limited to actual  
3 damages, statutory damages, or punitive damages), restitution, injunctive relief, declaratory relief,  
4 remedies, and causes of action of every type, nature, and description whatsoever, known or  
5 unknown, suspected or unsuspected, asserted or that might have been asserted, which each  
6 Plaintiff had, now has, or may hereafter claim to have against Defendant or any of the Released  
7 Parties for claims that occurred during the Class Periods.

8 17. Nothing in this Order shall preclude any action to enforce the Parties' obligations  
9 under the Settlement or under this Order, including the requirement that Defendant make  
10 payments in accordance with the Settlement Agreement.

11 18. If, for any reason, the Settlement ultimately does not become final (as defined by the  
12 Settlement): this Order will be vacated; the Parties will return to their respective positions in this  
13 action as those positions existed immediately before the Parties executed the Settlement  
14 Agreement; and nothing stated in the Settlement Agreement or any other papers filed with this  
15 Court in connection with the Settlement will be deemed an admission of any kind by any of the  
16 Parties or used as evidence against, or over the objection of, any of the Parties for any purpose in  
17 this action or in any other action.

18 19. The Parties entered into the Settlement solely for the purpose of compromising and  
19 settling disputed claims. Defendant in no way admits any violation of law or any liability  
20 whatsoever to Plaintiffs and the Class, individually or collectively, all such liability being  
21 expressly denied by Defendant.

22 20. The Parties are hereby ORDERED to comply with the terms of the Settlement  
23 Agreement.

24 21. Final Judgment is hereby entered based on the Parties' Settlement Agreement. All  
25 claims asserted in this Action are hereby DISMISSED with prejudice as to Plaintiffs Jonathan  
26 Bailey and Jose Carrasco, Jr., the California Class Members and FCRA Class Members. The  
27 PAGA claims asserted in this Action are hereby DISMISSED with prejudice as to Plaintiffs and  
28 all California Class Members. All California Class Members and FCRA Class Members who did

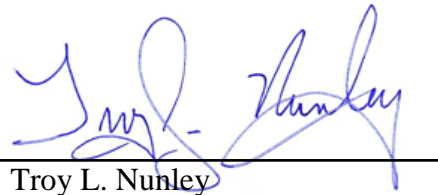
1 not properly and timely opt out from the Class Settlement are PERMANENTLY ENJOINED  
2 from pursuing or seeking to reopen any of the released claims as set forth in this Order.

3 22. Each side will bear her/his/its own costs and attorneys' fees except as provided by the  
4 Settlement Agreement and this Order.

5 23. Without affecting the finality of this Order, Settlement Agreement, or Judgment in  
6 any way, the Court shall retain exclusive and continuing jurisdiction over the above-captioned  
7 action and the Parties, including all Class Members, for purposes of supervising, administering,  
8 implementing, effecting, enforcing, and interpreting this Order and the Settlement Agreement.

9 IT IS SO ORDERED.

10 DATED: April 28, 2021

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14 Troy L. Nunley  
15 United States District Judge  
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